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Attorney Docket No.: 53394.000752
Application No.: 10/617,427

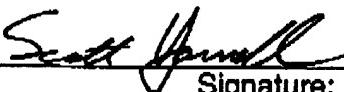
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2. RESPONSE TO ELECTION/RESTRICTIONS (3 pp)

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In re Patent Application of : Confirmation No.: 1308
Andrew Baker Group Art Unit: 3761
Application No.: 10/817,427 Examiner: Michele M. Kidwell
Filed: April 5, 2004
For: ABSORBENT ARTICLE HAVING
AN IDEAL CORE DISTRIBUTION
AND METHOD OF PREPARING SAME)

RESPONSE TO ELECTION/RESTRICTIONS

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed June 8, 2005, Applicant hereby traverses the restriction requirement and requests reconsideration and withdrawal of said restriction requirement.

SUMMARY OF RESTRICTION REQUIREMENT

The Examiner has required Applicant under 35 U.S.C. § 121 to elect one of two groups of claims:

- I. Claims 1-40 and 69-74, drawn to an absorbent article.
- II. Claims 41-68 and 75-76, drawn to a process for preparing an absorbent article.

In particular, the Examiner alleges as follows:

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Inventions I and II are related as process of making and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different process or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product could be made without forming a core according to a predetermined maximum Distribution index or without a specific Distribution Index.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art shown by their different classification, restriction for examination purposes as indicated is proper.

See Office Action, pages 2-3.

ELECTION

In the event that the restriction requirement is not withdrawn, Applicant hereby provisionally elects the claims of Invention Group I, Claims 1-40 and 69-74, with traverse.

TRAVERSAL

Applicant respectfully traverses the Examiner's restriction requirement, as follows. A requirement for restriction is only proper when a serious burden is placed on the Examiner. Applicant respectfully submits that a search and examination of all claims may be made without imposing a serious burden on the Examiner. Further, an important advantage in pursuing just one application encompassing all of the invention groups cited by the Examiner is that the examination work of the U.S. Patent and Trademark Office would be simplified, insofar as duplication of searching effort would be eliminated.

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Moreover, applicant respectfully submits that the claims of the designated groups have not acquired a separate status in the art for examination purposes. In particular, the Examiner has failed to establish separate status in the art by citing patents which are evidence of such separate status, or showing separate fields of search. Art very relevant to the patentability of the compositions might very logically be found in the art classes assigned to the process and apparatus claims. The classification cited in support of the election requirement is merely used for cataloging purposes and it is not conclusive of the propriety of such a requirement.

Accordingly, the restriction requirement will serve no purpose other than to unfairly and improperly require applicants to pay duplicative PTO fees to obtain patent protection for their invention.

Applicant believes that no fees are necessary in connection with the filing of this document. In the event any fees are necessary, please charge or credit any such fees, including fees for any extensions of time, to the undersigned's Deposit Account No. 50-0206.

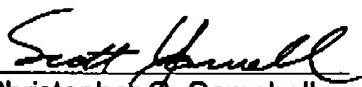
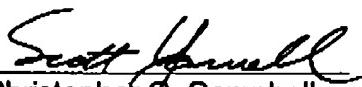
In view of the above remarks, It is thus respectfully requested that the restriction requirement be withdrawn and that all claims be allowed to be prosecuted in the same application.

Respectfully submitted,

HUNTON & WILLIAMS

Dated: July 8, 2005

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